

EXHIBIT 37

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JAMES BENBOW,

Plaintiff,

-against- Civ. No.: 17-CV-6457 (EK) (LB)

CITY OF NEW YORK; POLICE OFFICER BRIAN W.
FEELEY; POLICE OFFICER MATTHEW J. ROSIELLO;
POLICE OFFICER KENNETH L. ANDERSON; SERGEANT
WILLIAM A. DAIB; POLICE OFFICER SHANIEL J.
MITCHELL; and POLICE OFFICER STEPHEN J. MINUCCI,

Defendants.

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VIDEOCONFERENCE VIA ZOOM
Conducted by:
LEX REPORTING SERVICE
160 Broadway
New York, New York

November 19, 2020
10:06 a.m.

DEPOSITION of DETECTIVE STEPHEN T.

MINUCCI, named herein as **POLICE OFFICER STEPHEN J. MINUCCI**, a Defendant in the above-entitled action, held remotely via Zoom videoconference, pursuant to Order, taken before Tania C. Pedrosa, a shorthand reporter and Notary Public within and for the State of New York.

LEX#160688-A



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S. T. Minucci

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A I believe the year was 2001.

Q What were the circumstances of that?

A I was in college and found to be purchasing beer with a fake ID.

Q What, if anything, happened with that arrest? Were you convicted? dismissed?

A I was -- it was -- the charges were reduced and I did -- I paid a fine.

Q And where did that occur?

A Albany, New York.

Q Have you ever been a party to a lawsuit?

A Yes.

Q Okay. In what sense? Were you a plaintiff, a defendant or both?

A I was a defendant in some lawsuits in connection with my work as a police officer.

Q Okay. And how many times were you a defendant in those lawsuits?

A I don't know the exact number.

Q Okay. How about an approximate?

A I would -- if I had to guess, I

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2 would say around ten.

3 Q And what were those lawsuits for
4 in which you were a defendant as a police
5 officer?

6 MR. WEINER: Objection.

7 But you can answer if you
8 understand.

9 A I understand the question. It's
10 various lawsuits. I don't remember any -- I
11 don't remember the specific allegations of
12 each and every one.

13 Q Okay. Have you ever been sued
14 for any allegation involving any dishonesty?

15 MR. WEINER: Objection.

16 A I don't actually understand the
17 question. What -- what do you mean exactly?

18 Q Like someone accused you of being
19 dishonest in some way, taking their funds or
20 making a false report or saying something
21 that wasn't true, any allegation involving
22 dishonesty; if you know.

23 A I -- I don't know to be honest
24 with you. I'm sorry. It just seems to be a
25 vague question. I'm not really sure -- I

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A Is it all right if I answer generally?

Q Yeah, to the extent that you have to. If you don't remember, you know, a particular --

A I don't -- I don't remember specifics. In general, in the course of my work as a police officer, I've been accused of, you know, certain -- certain actions and those have gone to lawsuits. And the most -- most, if not all, were settled out of court.

Q Okay. And that's fine. Do you remember what those lawsuits were about?

A Again, pertaining to just in the course of my actions as a police officer.

Q Okay. Do you have any other understanding? Were they, like, lawsuits for excessive force? Were they lawsuits for search and seizure? Were they lawsuits, you know, for something else? And if you can't answer, just let me know.

MR. WEINER: Objection.

A Again, I believe there -- there have been some which alleged excessive force,

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2 some which alleged illegal search, violation
3 of rights -- those are the -- those are the
4 allegations that I vaguely remember but I
5 don't remember the specifics.

6 Q Okay. Have you ever had to go to
7 court to testify in relationship to any of
8 these lawsuits?

9 A Yes.

10 Q Okay. Which one?

11 A I -- I don't remember. I know --
12 I know I have testified in regards to a
13 lawsuit previously.

14 Q Okay. In court?

15 A I believe so, yes.

16 Q Okay. And your testimony is you
17 don't have a recollection as to what that
18 case was about?

19 A No.

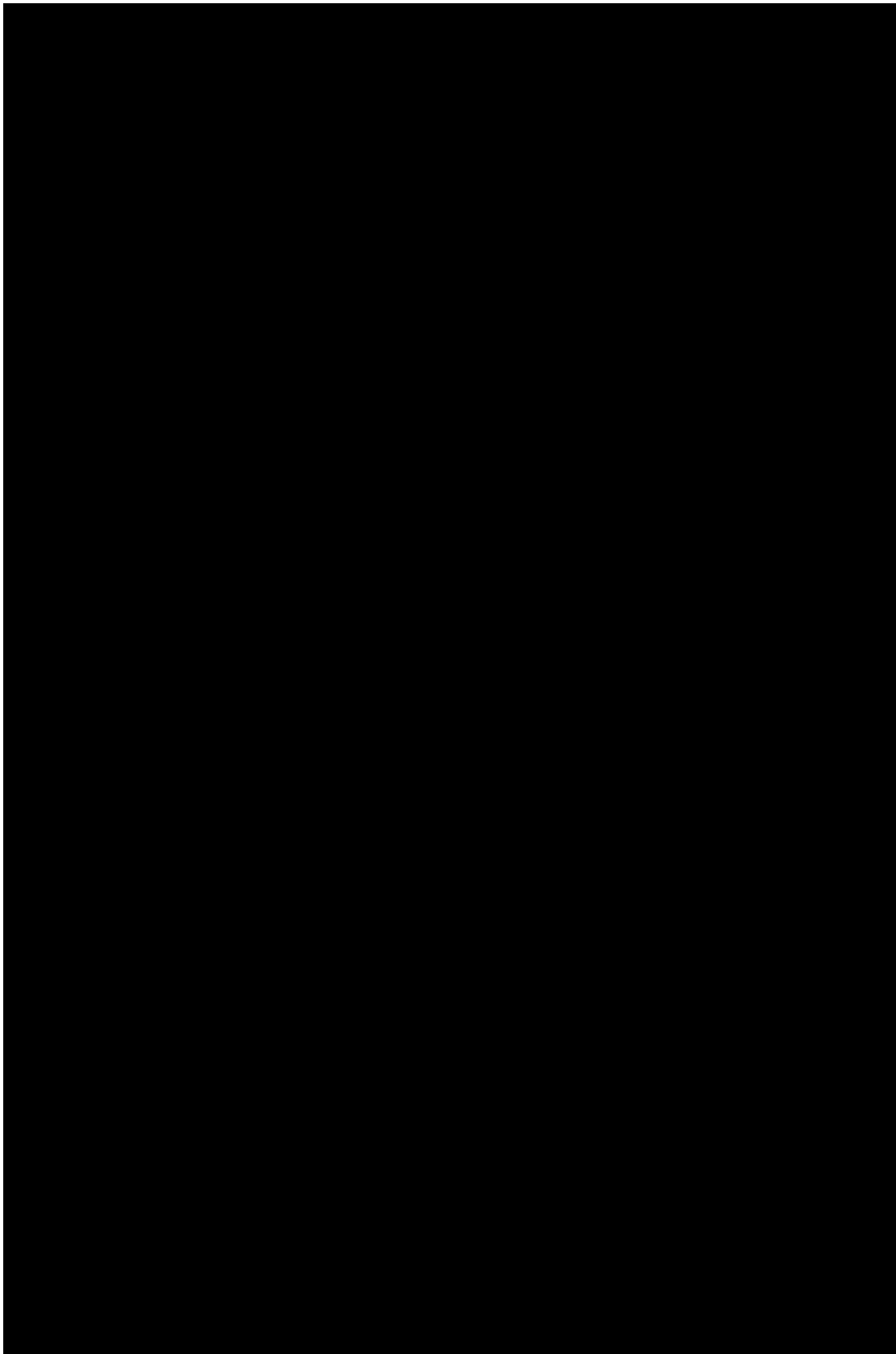
20 Q Okay. And when you say that the
21 cases were settled, do you know if all of
22 them were settled?

23 A I don't know if all of them were
24 settled. I believe most of them have been
25 settled at this point.

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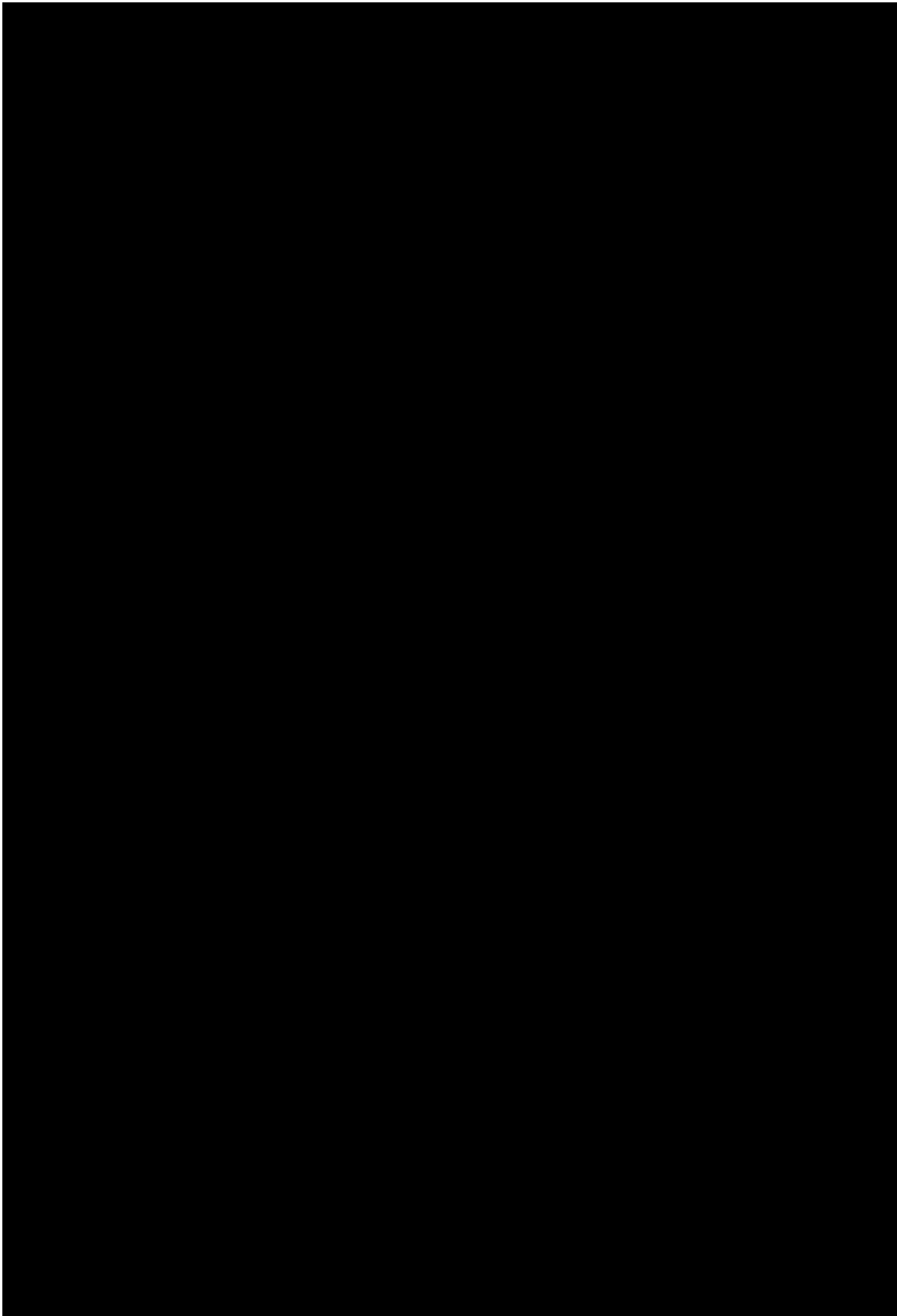
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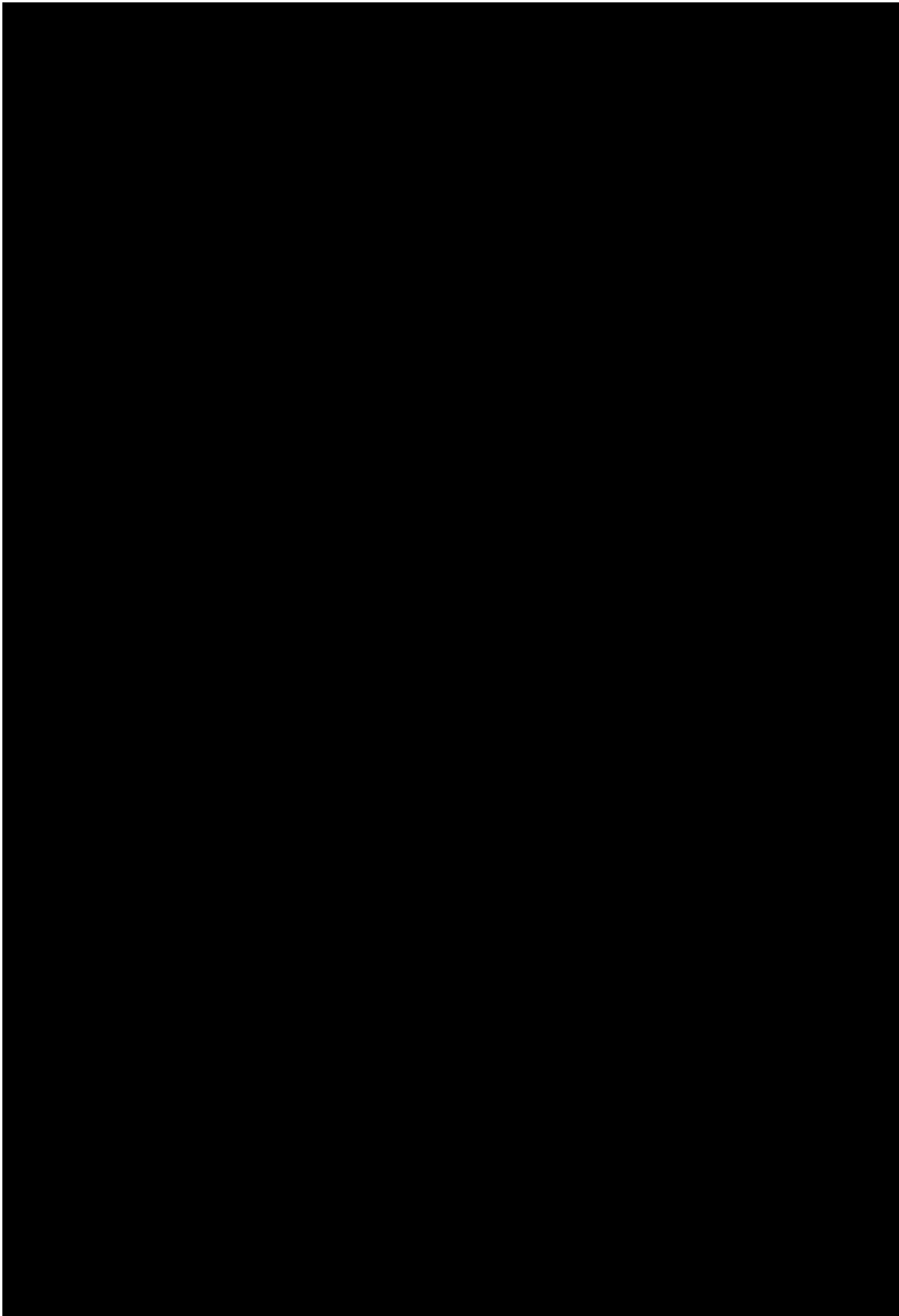
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2 he froze.

3 Is he still frozen for you?

4 THE REPORTER: Yes.

5 A Yeah. It was frozen for me. Are
6 you guys frozen?

7 (Technical difficulties.

8 Off the record.)

9 THE WITNESS: Can you repeat
10 the question?

11 BY MR. ABOUSHI:

12 Q Sure. Have you ever been taught
13 to shoot someone in their back?

14 MR. WEINER: Objection.

15 A No.

16 Q Have you ever been taught to
17 shoot someone simply because they possess a
18 gun?

19 MR. WEINER: Objection.

20 A I'm sorry. That -- that -- that
21 question is a little vague. Someone in
22 possession of a gun has the potential for
23 deadly physical force, so you have to be more
24 simple than did they have a gun. What would
25 be the --

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2 Q Well, let's start with the simple
3 premise. Let's start with the simple
4 premise.

5 The fact that someone has a gun
6 -- is in possession of a gun, is that in and
7 of itself a reason to shoot them?

8 MR. WEINER: Objection.

9 A To shoot them?

10 Q Yes.

11 A No.

12 Q Okay. If someone is running away
13 from you and they have a gun, is that -- have
14 you ever been taught to shoot at that point?

15 MR. WEINER: Objection.

16 A Is that person pointing the gun
17 at me or --

18 Q No.

19 A -- at someone else?

20 Q No.

21 A No? Then no.

22 Q So if someone is running away
23 with a gun and they're not pointing the gun
24 at you or someone else, there's no reason to
25 shoot them, correct?

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MR. WEINER: We object to
the hypothetical.

Go ahead.

A To shoot them, you're asking? I
want to be -- I just want to be clear.
You're asking to shoot and not to point my
firearm? Because there is a difference.

Q Yeah. My wording was shooting --

A No.

Q -- to shoot them.

A I would not -- I would not shoot
them simply for possessing and running away
for having a firearm.

Q Okay. Have you ever been taught
to shoot someone who's running away with a
gun?

MR. WEINER: Objection.

A To my recollection, no, I have
never been taught to shoot someone who's
running away with a firearm.

Q Now, are there guidelines for the
use of deadly force?

A Yes.

Q Okay. Have you ever seen those

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circumstances or absent those circumstances?

A Accepting, accepting those circumstances.

Q You're thinking of exigent circumstances.

A Yeah.

Q Did you have a regular partner in 2015?

A In 2015 I would have been working with Officer Mitchell, Officer Okvist -- those would have been my regular partners.

Q How do you spell Okvist?

A O-K-V-I-S-T.

Q And the three of you were in anti-crime in 2015; is that correct?

A Yes, that's correct.

Q And those would be your regular partners in the anti-crime control?

A Correct.

Q And were you -- strike that. Did you ever work with Officer Feeley?

A Yes, from time to time but he -- I believe -- and I'm -- I believe at the time

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Q Okay. And when you're taught to fire your weapon, you are taught to aim at center mass, correct?

A Correct.

Q And if someone is facing you, center mass would be from their hips to the beginning of their neck, correct?

A Correct.

Q If someone's back is to you, the center mass would be from their waistline to their neck, correct?

A Well, if they had their back turned to me, unless they were presenting a weapon, we wouldn't be shooting them, correct?

Q Well, I'm not answering your questions. You need to answer my questions.

In terms of center mass, if someone's back was to you, the center mass would be from their waistline to their neck, correct?

A Yes, that would be correct.

Q Do you know what would happen if you failed to qualify with your on-duty

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weapon?

A If you failed to qualify with it, you would be restricted from carrying it, and then you would presumably be put on administrative duty until you could qualify to carry it again.

Q Okay. Is there a waiting period to be requalified?

A I don't know the specifics because I've never failed to qualify with my duty weapon. I believe you are required to go through retraining and then at some period you can carry your weapon again when you requalify. I don't know the time frame.

Q Are you left-handed or right-handed?

A I am right-handed.

Q Okay. And your weapon is located on your right side?

A Correct.

Q So when you fire your weapon, what happens to the shell casings?

MR. WEINER: Objection.

Q Do they go up? To the right?

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he received intelligence of an individual with a firearm.

Q Were you with Officer Mitchell when he got that call?

A I don't remember if I was with him or -- I believe I was, yes.

Q Okay. And where were you all when the call came in?

A I believe we were -- I -- I don't remember. I believe we were at the 77th Precinct at the station house.

Q Okay. And what happened next?

A We informed Officer Diab of what the intelligence received -- I'm sorry. I apologize. Sergeant Diab.

Q Okay. And where was Sergeant Diab at the time?

A I don't remember.

Q Did you have any direct conversations with the person that had allegedly called Officer Mitchell about this situation?

A Not that I remember.

Q Did you have any conversation --

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clarification. Zoom audio
distortion/malfunction.)

A We simply discussed that Officer
Cespedes had informed us there was an
individual with a firearm and that we were
going to go tell Sergeant Diab so we can plan
what to do next.

Q And you don't remember what was
said specifically?

A No.

Q Okay. And what did you all
specifically say to Sergeant Diab?

A That we had information from our
FIO that there was an individual with a
firearm at a certain location.

Q Was Officer Cespedes at the
precinct at this time?

A I don't believe so.

Q Okay. Do you know where he was
when he made this call to Sergeant -- Officer
Mitchell?

A No, I don't know where he was.

Q At any point in time that night,
did you speak to Jason Marshall?

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A No.

Q Did you or Officer Mitchell do anything to confirm the information that Mitchell says he received from Cespedes?

MR. WEINER: Objection.

A What do you mean? Could you be a little more specific? What do you mean confirm it?

Q Meaning did you do anything to investigate whether or not that was true?

A I believe someone spoke to the individual that Officer Cespedes spoke to. I don't remember who that was, though.

Q What makes you believe that?

A What makes me believe what, sir?

Q That someone spoke to the individual that Cespedes allegedly spoke to.

A I -- it's just my -- to my recollection, someone did speak to him.

Q You just don't know where or how that recollection came about?

A I don't -- I don't remember specifically who it may have been.

Q Okay. After you spoke to

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Mr. Bradley and Mr. Benbow turns around and runs in the opposite direction, correct?

A Correct.

Q Does he confront you?

A Does he confront me?

Q Yes.

A Mr. Benbow?

Q Does Mr. Benbow confront you?

A No.

Q Does he point a gun at you?

A No, he doesn't point a gun at me.

Q Does he point a gun at Sergeant Diab?

A No.

Q Does he point a gun at Officer Mitchell?

A No.

Q Did you see him point a gun at any officer that night?

A Yes.

Q You saw him point a gun at an officer?

A I'm sorry. I apologize. No, I did not see him pointing a gun. When I

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Q Okay. And what happened after the ambulance arrived?

A I spoke to the supervisor on the location and then we all went back to the 84th Precinct.

Q Okay. And who were the supervisors at the location?

A I -- I couldn't tell you. I don't remember at all.

Q Okay.

A Other -- other than, obviously, Sergeant Diab.

Q Did you have a conversation with Sergeant Diab immediately after the shooting?

A We may have but I don't remember the specifics of it.

Q Okay. You testified earlier that there was a conversation after the shooting with the officers that were present, correct?

A Correct.

Q You don't remember what was said, correct?

A No, I don't remember.

Q Okay. How far away for you --

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2 how far away from Mr. Benbow were you when he
3 was shot?

4 MR. WEINER: Objection.

5 A As I said, maybe 20 to 30 feet.

6 Q Okay. So 20 to 30 feet from
7 behind you, correct?

8 MR. WEINER: Objection.

9 A It would be -- I'm sorry. What
10 do you mean?

11 Q I'm just trying to narrow it.
12 So you were in the rear passenger
13 -- rear driver -- how did you characterize --
14 you were in the rear seat behind the driver
15 in your vehicle, correct?

16 A Correct.

17 Q Okay. And you got out of your
18 vehicle, correct?

19 A Correct.

20 Q And at some point you were facing
21 the sidewalk, correct?

22 A Correct.

23 Q Okay. So the driver's side is to
24 your left at that point, correct?

25 A Correct.

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2 Q And Mr. Benbow is to your right
3 down the street, correct?

4 A Correct.

5 Q Okay. So at that point when he's
6 to your right down the street, how far was he
7 from you when he was shot?

8 MR. WEINER: Objection.

9 A Again, I would estimate to the
10 best of my recollection 20 to 30 feet.

11 Q Okay. He's essentially parallel
12 to you 20 to 30 feet to your right, correct?

13 MR. WEINER: Objection.

14 A Correct.

15 Q When he was shot, correct?

16 A Correct.

17 Q Where was Officer Minucci when
18 Mr. Benbow was shot?

19 MR. WEINER: He is Officer
20 Minucci.

21 A I am Officer --

22 Q I'm sorry. Officer Mitchell.
23 Yes, you are Officer Minucci. Thank you.

24 A I -- he was getting out of the
25 vehicle. I don't know if he -- I don't

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2 weapon out because you were responding to a
3 report of someone with a gun, correct?

4 A Correct.

5 Q Okay. And you pointed the gun in
6 the direction of Mr. Benbow and Mr. Bradley
7 initially, correct?

8 A Correct.

9 Q Okay. And then Mr. Benbow turned
10 and ran away, correct?

11 A Correct.

12 Q Okay. Earlier we went over the
13 fact that when Mr. Benbow was shot, he was to
14 your right approximately 20 to 30 feet from
15 you in the middle of the street, correct?

16 A Correct.

17 Q Did you point your gun at him at
18 that time?

19 A I had my gun drawn and was
20 pointed in the direction when I heard the
21 gunshots fired.

22 Q Okay. Did you ever point your
23 gun specifically at Mr. Benbow other than
24 when you first got out of the car and he ran
25 away?